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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
ADA ALICEA, on behalf of herself
and all others similarly situated,

07 Civ. 6123 (DC)

Plaintiff,

-against-

**NOTICE OF MOTION
TO REMAND**

**Oral Argument
Requested**

CIRCUIT CITY STORES, INC.,

Defendant.
-----X

PLEASE TAKE NOTICE that, upon the annexed Affidavit of John B. Dawson, sworn to on July 27, 2007, and the Memorandum of Law In Support of Motion For Remand in support of this Motion, filed contemporaneously herewith, plaintiff Ada Alicea will move the Court, the Honorable Denny Chin, on August____, 2007____, at 9:30 a.m, or as soon thereafter as counsel may be heard, at the United States Courthouse, 500 Pearl Street, Room 1020, New York, New York, 10007, for an Order pursuant to 28 U.S.C. §1447(c) remanding this action to the State of New York Supreme Court, County of Bronx, an award for plaintiff's costs and actual expenses, including attorneys' fees, incurred as a result of the removal, and for all other and

further relief as the Court deems just and proper.

Dated: White Plains, New York
July 27, 2007

Respectfully Submitted,

By: /s/ John B. Dawson
Jeffrey I. Carton (JC-8296)
Jerome Noll (JN-7542)
John B. Dawson (JD-2709)

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ADA ALICEA, on behalf of herself
and all others similarly situated,

07 Civ 6123

Plaintiff,

-against-

**AFFIDAVIT OF
JOHN B. DAWSON**

CIRCUIT CITY STORES, INC ,

Defendant
-----X

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

JOHN B. DAWSON, being duly sworn, deposes and says:

1. I am a member of the bar of this Court, and an associate with the law firm of Meiselman, Denlea, Packman, Carton & Eberz P C., attorneys for plaintiff Ada Alicea ("Plaintiff") in this action. I have knowledge of the facts set forth in this Affidavit either from personal knowledge or from a review of the files in the possession of my firm. I respectfully submit this Affidavit in support of Plaintiff's motion for remand of this law suit to the forum in which it was commenced, i.e., the New York State Supreme Court for the County of Bronx.

2. This action arises out of Defendant Circuit City Stores, Inc.'s ("Defendant") deceptive business practice concerning its return policy and imposition of an undisclosed "restocking fee" in the amount of 15% of the purchase price of certain returned items.

3. On May 23, 2007, Plaintiff filed a Summons and Class Action Complaint

(the "Complaint") in the Supreme Court of the State of New York, County of Bronx. A true and correct copy of the Complaint is annexed hereto it as Exhibit A.

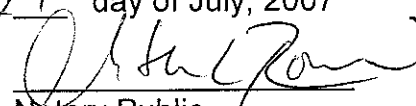
4. Defendant received a copy of the Complaint on May 29, 2007, and by agreement of the parties, Defendant was deemed to have been served as of June 11, 2007.

5. On June 29, 2007, Defendant filed a Notice of Filing for Removal of the Action to the United States District Court, Southern District of New York (the "Notice of Removal") A copy of the Notice of Removal is annexed hereto as Exhibit B.

6. As set forth in detail in the accompanying Memorandum of Law, Defendant has failed to offer competent proof to support its conclusory assertion that the \$5 million amount-in-controversy requirement under 28 U.S.C. § 1332(d) has been satisfied. Consequently, Defendant has failed to discharge its burden of establishing this Court's subject matter jurisdiction to preside over this case.

7. For the reasons stated above and in the accompanying Memorandum of Law, I respectfully submit that, pursuant to 28 U.S.C. § 1447(c), this case should be remanded to the Supreme Court of the State of New York, County of Bronx, and that Plaintiff should be awarded just costs and actual expenses, including attorneys' fees, incurred as a result of Defendant's improper removal of the action to this Court.


JOHN B. DAWSON (JD2709)

Sworn to before me this
27th day of July, 2007

Notary Public

00196631 WPD

CHRISTAL ROMCI
Notary Public, State of New York
No. 4847184
Qualified in Westchester County
Commission Expires February 19, 2011